IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE TWENTIETH DAY OF JULY
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE B.SESHASAYANA REDDY

WRIT PETITION No: 11491 of 2005

Between:

1 V.Vijaya Bhaskar Reddy, S/o. Chenga Reddy,
Kothapalli Village, Thiminaidupalem Revenue Village,
Tirupathi Urban Mandal, Chittoor District, Andhra Pradesh.
2 Smt. D.Desamma, S/o. Kumar,
Kothapalli Village, Thiminaidupalem Revenue Village,
Tirupathi Urban Mandal, Chittoor District, Andhra Pradesh.
3 K.Muneendra Reddy, S/o. Bali Reddy,
Kothapalli Village, Thiminaidupalem Revenue Village,
Tirupathi Urban Mandal, Chittoor District, Andhra Pradesh.
4 Smt. P.Malleswari, W/o. Mohan Reddy,
Kothapalli Village, Thiminaidupalem Revenue Village,
Tirupathi Urban Mandal, Chittoor District, Andhra Pradesh.
5 M.Nagaraju, S/o. Muni Reddy,
Kothapalli Village, Thiminaidupalem Revenue Village,
Tirupathi Urban Mandal, Chittoor District, Andhra Pradesh.
6 N.Harinath, S/o. Reddappa,
Kothapalli Village, Thiminaidupalem Revenue Village,
Tirupathi Urban Mandal, Chittoor District, Andhra Pradesh.
7 P.Kuchel Reddy, S/o. Nagi Reddy,
Kothapalli Village, Thiminaidupalem Revenue Village,
Tirupathi Urban Mandal, Chittoor District, Andhra Pradesh.
8 Smt. J.Janaki, W/o. Desi Reddy,
Kothapalli Village, Thiminaidupalem Revenue Village,
Tirupathi Urban Mandal, Chittoor District, Andhra Pradesh.
9 Smt. P.Pushpa, W/o. Ananda Reddy,
Kothapalli Village, Thiminaidupalem Revenue Village,
Tirupathi Urban Mandal, Chittoor District, Andhra Pradesh.
10 T.Hajrath Reddy, S/o. Nagi Reddy,
Kothapalli Village, Thiminaidupalem Revenue Village,

Tirupathi Urban Mandal, Chittoor District, Andhra Pradesh.

11 C.Subrahmanyam, S/o. Venkaiah,
Kothapalli Village, Thiminaidupalem Revenue Village,
Tirupathi Urban Mandal, Chittoor District, Andhra Pradesh.

12 M.Jayamma, W/o. Muni Reddy,
Kothapalli Village, Thiminaidupalem Revenue Village,
Tirupathi Urban Mandal, Chittoor District, Andhra Pradesh.

13 M.Muni Reddy, S/o. Perumal Reddy,
Kothapalli Village, Thiminaidupalem Revenue Village,
Tirupathi Urban Mandal, Chittoor District, Andhra Pradesh.

14 Smt. D.Sukumari, W/o. Kishorekumar,
Kothapalli Village, Thiminaidupalem Revenue Village,
Tirupathi Urban Mandal, Chittoor District, Andhra Pradesh.

15 A.Ramachandra Reddy, S/o. Gangi Reddy,
Kothapalli Village, Thiminaidupalem Revenue Village,
Tirupathi Urban Mandal, Chittoor District, Andhra Pradesh.

16 B.R.Naik, S/o. Rama Naik,
Kothapalli Village, Thiminaidupalem Revenue Village,
Tirupathi Urban Mandal, Chittoor District, Andhra Pradesh.

17 T.Shankar Rao, S/o. Pullaiah,
Kothapalli Village, Thiminaidupalem Revenue Village,
Tirupathi Urban Mandal, Chittoor District, Andhra Pradesh.

..... PETITIONERS

AND

1 The Mandal Revenue Officer, Tirupathi Urban Mandal,
Tirupathi, Chittoor District, Andhra pradesh.

2 The District Collector, Chittoor District,
Chittoor, A.P.

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue an appropriate writ, or order or direction under Article 226 of the Constitution of India, particularly one in the nature of writ of Mandamus, directing the respondents not to interfere the possession and enjoyment of the petitioners plots No.1 to 20 and the houses therein situated in Survey No.338 of Thimminaidupalem village of Tirupati Urban Mandal, Chittoor District A.P. as unjust, illegal and arbitrary after calling for the records and to pass such other order or orders as this Hon'ble Court may deem fit and proper.

Counsel for the Petitioners: MR.NUTHALAPATI KRISHNA MURTHY

Counsel for the Respondents: GP FOR REVENUE

The Court made the following:

ORAL ORDER:-

The Writ petition is filed by the petitioners who are 17 in number with a prayer to issue an appropriate writ or order or direction more particularly one in the nature of writ of Mandamus directing the respondents not to interfere with their possession and enjoyment in respect of petitioners plot Nos.1 to 20 and houses therein in Survey No.338 of Thimminaidupalem village of Tirupati Urban Mandal, Chittoor District.

It is the case of the petitioner that an extent of Ac.1.50 cents in Sy.No.338 of Thimminaidupalem Village was assigned to one M.Ramaiah, S/o. Yamaiah, an Ex-serviceman, on 30.06.1976. Subsequently, the said Ramiah sold the land to the 1st petitioner under a Registered Sale Deed on 06.12.2003. Subsequently, the 1st petitioner converted the agricultural land into house plots ranging between 100 to 250 Square Yards and sold some of the house plots to petitioners 2 to 17. It is the grievance of the petitioners that the respondents without initiating any proceedings against them are contemplating to dispossess them from the suit land, and therefore, they approached this court by invoking the jurisdiction under Article 226 of Constitution of India.

The respondents filed counter-affidavit. One H. Sankara Narayana Murthy sworn to the counter-affidavit. It is stated in the counter-affidavit that DKT Patta said to have been issued by the then Tahsildar is fabricated one. It is further stated in the counter-affidavit that as on the date of passing of the interim orders, there were no structures and that the petitioners taking advantage of the interim orders have put up some constructions so as to show of their possession over of the property.

I deem it appropriate to refer Para Nos.4 and 5 of the counter-affidavit, which reads thus:

> "4. At the outset, it is to be submitted that as per the Revenue records, the land to an extent of Ac.2.67 cents in Sy.No.338 of Thimminaidupalem Village is classified as "VAGU PORAMBOKE" which is a watercourse Poramboke. As such, the land is prohibited for assignment and cannot be changed the nomenclature as per Board Standing Order (BSO) 15 (IV). Hence the contention of the petitioners is that one Mr.M.Ramaiah, an Ex-serviceman was assigned an extent of Ac.1.50 cents in Sy.No.338 on 30.06.1976 by the then Tahsildar, Chandragiri is a deliberate false statement. Neither the petitioners nor their vendor has any right or valid title over the property in question. The Government has control over the disputed land. As a matter of fact, this respondent on 13.06.2005 addressed a letter to the Mandal Revenue Officer, Chandragiri requesting him to submit a report whether any DKT Patta has been issued by the then Tahsildar or not to the vendor of the 1st petitioner. The Mandal Revenue Officer, Chandragiri has reported that after making thorough verification, it is found that there is no such DKT Patta issued and further reported that the enjoyment certificate Dt.9.11.1984 has not been issued by the then Tahsildar, Chandragiri. Hence, from the above report of the Mandal Revenue Officer, Chandragiri, it is revealed that the petitioners have created and fabricated the documents and produced before this Hon'ble Court with a malafide intention to grab the valuable Government land.
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> 5. It is to be submitted that any sale transactions over the land in question which is a Government land are prohibited and whatever transactions took place are null and void. It is submitted that neither the petitioners nor their vendors are in possession and enjoyment of any part of the suit land at any point of time. It is pertinent to submit here that the petitioners never constructed any house in the land in question are part theirin as on 24.5.2005. But the petitioners by obtaining the interim orders dated 24.05.2005, illegally encroached the valuable Government land which is not fit for residential purpose, raised temporary structures. The Additional Revenue Inspector, Tirupati Urban prevented the petitioners, they have produced the wire orders of this Hon'ble Court and started construction of the temporary houses. Suffice to say that as on 24.05.2005, there are no constructions in the land and it is vacant on ground. Hence, the contention of the petitioners that this respondent threatened the petitioners with dispossession from the houses is false and baseless since there are no houses existing in the land in question by 24.05.2005. The Gram Panchayat, Thimminaidupalem neither approved layout nor assigned door numbers. Hence, the question of threatening the petitioners and issuing of notice to the petitioners does not arise."

Heard the learned counsel for the petitioners and the learned Government Pleader appearing for respondents 1 and 2. It is contended by the counsel for the petitioners that one Ramaiah was assigned with Ac.1.50 cents in Sy.No.338 of Thimminaidupalem village in the year 1976 and the said Ramaiah sold the property to the 1st petitioner, and thereafter, the 1st petitioner converted the agricultural land into house plots and sold some of the plots to the petitioners 2 to 17 and thus the petitioners are in possession of the land in question. He further submits that the respondents 1 and 2 without initiating any proceedings are attempting to dispossess them.

Per contra, the learned Government Pleader appearing for respondents 1 and 2 submits that the very DKT Patta said to have been issued in favour of Ramaiah is fabricated one. It is also submitted that the petitioners taking advantage of the interim order passed by this Court, entered on the land and put up some constructions to show of their possession over the property in question.

A fact remains that a Registered Sale Deed has been obtained by the first petitioner from Ramaiah. Whether the sale is legal or contrary to the terms and conditions of the assignment is required to be gone into the proceedings in case of such proceedings are initiated by the respondents. Unless necessary proceedings are initiated under the provisions of A.P. Assigned Lands (Prohibition of Transfers) Act 1977 (for short 'the Act') or any other Act, the petitioners who are in possession cannot be thrown out.

In the result, the writ petition is disposed of directing the respondents to follow the procedure established under law in case the petitioners are to be evicted from the land in question. The petitioners are directed not to put up any further constructions on the land in question till the conclusion of the proceedings to be initiated by respondents. No order as to costs.

20.07.2005

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To

1 The Mandal Revenue Officer, Tirupathi Urban Mandal,
Tirupathi, Chittoor District, Andhra pradesh.
2 The District Collector, Chittoor District, Chittoor, A.P.

3 2 CCs to the GP for Revenue, High Court buildings, Hyderabad (OUT)

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